

NUCLEAR REGULATORY COMMISSION

[Docket No. 030-35321, License No. 11-27657-01, EA-03-128]

In the Matter of All Tech Corporation Pocatello, Idaho; Order Imposing Civil Monetary Penalty

All Tech Corporation (Licensee) is the holder of Byproduct Material License No. 11-27657-01 issued by the Nuclear Regulatory Commission (NRC or Commission) on March 6, 2000. The license authorizes the Licensee to use and possess portable gauging devices in accordance with the conditions specified therein.

An investigation of the Licensee's activities was initiated on March 18, 2003. The investigation concluded that the Licensee had not conducted its activities in full compliance with NRC requirements. The results of the investigation were discussed with the Licensee during a predecisional enforcement conference on September 15, 2003. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated April 27, 2004. The Notice stated the nature of the violation, the provision of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violation.

The Licensee responded to the Notice in a letter dated June 2, 2004. In its response, the Licensee denied the violation in whole and requested remission or mitigation of the civil penalty.

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined that the violation occurred as stated and that the penalty proposed for the violation designated in the Notice should be imposed.

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *It is hereby ordered that:*

The Licensee pay a civil penalty in the amount of \$6,000 within 30 days of the date of this Order, in accordance with NUREG/BR-0254. In addition, at the time of making the payment, the licensee shall submit a statement indicating when and by what method payment was made, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738.

The Licensee may request a hearing within 30 days of the date of this Order.

Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

- (a) Whether the Licensee was in violation of the Commission's requirements as set forth in the Notice referenced in Section II above, and
- (b) Whether, on the basis of such violation, this Order should be sustained.

Dated this 10th day of December 2004.

For the Nuclear Regulatory Commission.

Frank Congel,

Director, Office of Enforcement.

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-498 AND 50-499]

STP Nuclear Operating Company, et al., South Texas Project, Units 1 and 2; Notice of Consideration of Approval of Application Transfer of Facility Operating Licenses and Conforming Amendments and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an order under Section 50.80 of Title 10 of the Code of Federal Regulations (10 CFR), approving the direct transfer of Facility Operating License Nos. NPF-76 and NPF-80 for South Texas Project (STP), Units 1 and 2, respectively, to the extent held by AEP Texas Central Company (TCC). The Commission is further considering amending the licenses for administrative purposes to reflect the proposed transfer, including removing references to TCC in the licenses.

The application requests the consent of the NRC to the proposed direct transfer of the STP, Units 1 and 2, licenses to the extent held by TCC by virtue of the direct transfer of TCC's 25.2 percent undivided ownership interest in STP, Units 1 and 2 (TCC's ownership interest in STP) to STP co-owners Texas Genco, LP (Texas Genco) and/or City Public Service Board of San Antonio (CPS). According to the application, it is currently anticipated that the following proportionate shares of TCC's ownership interest in STP will be transferred to Texas Genco and CPS: a 13.2 percent undivided ownership interest to Texas Genco and a 12 percent undivided ownership interest to CPS. If, however, the transfer to either Texas Genco or CPS fails to take place, the party whose transfer has not failed to take place will be obligated, subject to the terms and conditions of a September 3, 2004, Purchase and Sale Agreement between TCC, CPS, and Texas Genco (Purchase and Sale Agreement), to purchase all of TCC's ownership interest in STP.

(In a separate but parallel action, an October 12, 2004, application requests the consent of the NRC to the proposed indirect transfer of control of the STP, Units 1 and 2, licenses to the extent held by Texas Genco by virtue of the transfer of ownership of approximately 81 percent of the stock of Texas Genco's indirect parent company, Texas Genco Holdings Inc. (TGN), from CenterPoint Energy, Inc., (CenterPoint Energy) to GC Power Acquisitions, LLC (GC Power). Texas Genco is an indirect subsidiary of TGN and TGN is an indirect subsidiary